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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2005 64314

PETER TAN
100 Windward Court
Vallejo, CA 94591

ACCUSATION

Physical Therapist License No. PT 21149

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about September 28, 1995, the Physical Therapy Board of California issued Physical Therapist License Number PT 21149 to Peter Tan ("respondent"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2009 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code¹ unless otherwise indicated.

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2655 of the Code states:

“As used in this article:

(a) ‘Physical therapist’ means a physical therapist licensed by the board.

(b) ‘Physical therapist assistant’ means a person who meets the qualifications stated in Section 2655.3 and who is approved by the board to assist in the provision of physical therapy under the supervision of a physical therapist who shall be responsible for the extent, kind, and quality of the services provided by the physical therapist assistant.

(c) ‘Physical therapist assistant’ and ‘physical therapy assistant’ shall be deemed identical and interchangeable.”

6. Section 2655.7 of the Code states:

“Notwithstanding Section 2630, a physical therapist assistant may assist in the provision of physical therapy service provided the assistance is rendered under the supervision of a physical therapist licensed by the board.”

7. Section 2630 of the Code provides:

“It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the

1. All statutory references are to the Business and Professions Code unless otherwise specified.

1 person holds a valid, unexpired, and unrevoked license issued under this chapter.”

2 Nothing in this section shall restrict the activities authorized by their licenses on the part
3 of any persons licensed under this code or any initiative act, or the activities authorized to be
4 performed pursuant to Article 4.5 (commencing with section 2655) or Chapter 7.7 (commencing
5 with section 3500).

6 A physical therapist licensed pursuant to this chapter may utilize the services of one aide
7 engaged in patient-related tasks to assist the physical therapist in his or her practice of physical
8 therapy. “Patient-related task” means a physical therapy service rendered directly to the patient
9 by an aide, excluding non-patient-related tasks. “Non-patient-related task” means a task related
10 to observation of the patient, transport of the patient, physical support only during gait or transfer
11 training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be
12 under the orders, direction, and immediate supervision of the physical therapist. Nothing in this
13 section shall authorize an aide to independently perform physical therapy or any physical therapy
14 procedure. The board shall adopt regulations that set forth the standards and requirements for the
15 orders, direction, and immediate supervision of an aide by a physical therapist. The physical
16 therapist shall provide continuous and immediate supervision of the aide. The physical therapist
17 shall be in the same facility as, and in proximity to, the location where the aide is performing
18 patient-related tasks, and shall be readily available at all times to provide advice or instructions to
19 the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical
20 therapist shall, at some point during the treatment day, provide direct service to the patient as
21 treatment for the patient’s condition, or to further evaluate and monitor the patient’s progress,
22 and shall correspondingly document the patient’s record.

23 The administration of massage, external baths, or normal exercise not a part of a physical
24 therapy treatment shall not be prohibited by this section.

25 8. Section 2620.7 of the Code provides:

26 “(a) A physical therapist shall document his or her evaluation, goals,
27 treatment plan, and summary of treatment in the patient record.

28 (b) A physical therapist shall document the care actually provided to a

1 patient in the patient record.

2 (c) A physical therapist shall sign the patient record legibly.

3 (d) Patient records shall be maintained for a period of no less than seven
4 years following the discharge of the patient, except that the records of
5 unemancipated minors shall be maintained at least one year after the minor has
6 reached the age of 18 years, and not in any case less than seven years.”

7 9. Section 2608.5 of the Code provides:

8 “Each member of the board, or any physical therapist appointed by the
9 board, may inspect, or require reports from, a general or specialized hospital or
10 any other facility providing physical therapy care, treatment or services and the
11 physical therapy staff thereof, with respect to the physical therapy care, treatment,
12 services, or facilities provided therein, and may inspect physical therapy patient
13 records with respect to the care, treatment, services, or facilities. The authority to
14 make inspections and to require reports as provided by this section shall not be
15 delegated by a member of the board to any person other than a physical therapist
16 and shall be subject to the restrictions against disclosure described in Section
17 2263.”

18 10. Section 2660 of the Code provides, in pertinent part, that the Board may suspend,
19 revoke or impose probationary conditions upon any license for unprofessional conduct that
20 includes, ***but is not limited to***, one or any combination of the following causes:

21 “(h) Gross negligence in his or her practice as a physical therapist or
22 physical therapy assistant.

23 (i) Violating or attempting to violate directly or indirectly, . . .
24 any provision or term of this chapter or of the ***State Medical Practice Act***.
25 (Emphasis added)

26 (j) The aiding or abetting of any person to violate this chapter or any
27 regulations duly adopted under this chapter.

28 (k) The aiding or abetting of any person to engage in the unlawful

1 practice of physical therapy.

2 (l) The commission of any fraudulent, dishonest or corrupt act which
3 is substantially related to the qualifications, functions or duties of a physical
4 therapist.”

5 11. Section 2655.92 of the Code states:

6 “The board may adopt regulations as reasonably necessary to carry out the
7 purposes of this article. The board shall adopt a regulation formulating a
8 definition of the term ‘adequate supervision’ as used in this article.”

9 12. Section 1398.44 of Title 16 of the California Code of Regulations states, in
10 pertinent part:

11 “1398.44. Adequate Supervision Defined.

12 A licensed physical therapist shall at all times be responsible for all
13 physical therapy services provided by the physical therapist assistant. The
14 supervising physical therapist has continuing responsibility to follow the progress
15 of each patient, provide direct care to the patient and to assure that the physical
16 therapist assistant does not function autonomously. Adequate supervision shall
17 include all of the following:

18 (a) The supervising physical therapist shall be readily available in person
19 or by telecommunication to the physical therapist assistant at all time while the
20 physical therapist assistant is treating patients. The supervising physical therapist
21 shall provide periodic on site supervision and observation of the assigned patient
22 care rendered by the physical therapist assistant.

23 (b) The supervising physical therapist shall initially evaluate each patient
24 and document in the patient record, along with his or her signature, the evaluation
25 and when the patient is to reevaluated

26
27 (d) The supervising physical therapist shall reevaluate the patient as
28 previously determined, or more often if necessary, and modify the treatment, goals

1 and plan as needed. The reevaluation shall include treatment to the patient by the
2 supervising physical therapist. The reevaluation shall be documented and signed
3 by the supervising physical therapist in the patient's record and shall reflect the
4 patient's progress toward the treatment goals and when the next reevaluation shall
5 be performed.

6
7 (f) Within seven (7) days of the care being provided by the physical
8 therapist assistant, the supervising physical therapist shall review, cosign and date
9 all documentation by the physical therapist assistant or conduct a weekly case
10 conference and document it in the patient record. Cosigning by the supervising
11 physical therapist indicates that the supervising physical therapist has read the
12 documentation, and unless the supervising physical therapist indicates otherwise,
13 he or she is in agreement with the contents of the documentation.

14 (g) There shall be a regularly scheduled and documented case conference
15 between the supervising physical therapist and physical therapist assistant
16 regarding the patient. The frequency of the conferences is to be determined by the
17 supervising physical therapist based on the needs of the patient, the supervisory
18 needs of the physical therapist assistant and shall be at least every thirty calendar
19 days.

20 (h) The supervising physical therapist shall establish a discharge plan. At
21 the time of discharge, or within 7 (seven) days thereafter, a supervising physical
22 therapist shall document in the patient's record, along with his or her signature,
23 the patient's response to treatment in the form of a reevaluation or discharge
24 summary."

25 13. Title 16, Section 1399 of the CCR provides:

26 "A physical therapy aide is an unlicensed person who assists a physical
27 therapist and may be utilized by a physical therapist in his or her practice by
28 performing nonpatient related tasks, or by performing patient related tasks.

1 (a) As used in these regulations:

2 (1) A 'patient related task' means a physical therapy service
3 rendered directly to the patient by an aide, excluding nonpatient related tasks as
4 defined below.

5 (2) A 'nonpatient related task' means a task related to observation
6 of the patient, transport of patients, physical support only during gait or transfer
7 training, housekeeping duties, clerical duties and similar functions.

8 (b) 'Under the orders, direction and immediate supervision' means:

9 (1) Prior to the initiation of care, the physical therapist shall
10 evaluate every patient prior to the performance of any patient related tasks by the
11 aide. The evaluation shall be documented in the patient's record.

12 (2) The physical therapist shall formulate and record in the
13 patient's record a treatment program based upon the evaluation and any other
14 information available to the physical therapist, and shall determine those patient
15 related tasks which may be assigned to an aide. The patient's record shall reflect
16 those patient related tasks that were rendered by the aide, including the signature
17 of the aide who performed those tasks.

18 (3) The physical therapist shall assign only those patient related
19 tasks that can be safely and effectively performed by the aide. The supervising
20 physical therapist shall be responsible at all times for the conduct of the aide while
21 he or she is on duty.

22 (4) The physical therapist shall provide continuous and immediate
23 supervision of the aide. The physical therapist shall be in the same facility as and
24 in immediate proximity to the location where the aide is performing patient
25 related tasks, and shall be readily available at all times to provide advice or
26 instruction to the aide. When patient related tasks are provided to a patient by an
27 aide the supervising physical therapist shall at some point during the treatment day
28 provide direct service to the patient as treatment for the patient's condition or to

1 further evaluate and monitor the patient's progress, and so document in the
2 patient's record.

3 (5) The physical therapist shall perform periodic re-evaluation of
4 the patient as necessary and make adjustments in the patient's treatment program.
5 The re-evaluation shall be documented in the patient's record.

6 (6) The supervising physical therapist shall countersign with their
7 first initial and last name, and date all entries in the patient's record, on the same
8 day as patient related tasks were provided by the aide."

9 14. Section 1398.52, Title 16 of the California Code of Regulations provides:

10 "(a) A physical therapist assistant student is an unlicensed person
11 rendering physical therapy services as part of academic training pursuant to
12 section 2655.75 of the Code and shall only be identified as a 'physical therapist
13 assistant student.' A person who has completed the required academic
14 coursework may be identified as a 'physical therapist assistant intern' when
15 rendering physical therapy services. When rendering physical therapy services,
16 the required identification shall be clearly visible and include his or her name and
17 working title in at least 18-point type.

18 (b) The physical therapist assistant student or intern shall be supervised by
19 a physical therapist supervisor. A physical therapist assistant under the
20 supervision of a physical therapist supervisor may perform as a clinical instructor
21 of the physical therapist assistant student or intern when rendering physical
22 therapy services.

23 (c) A physical therapist supervisor shall provide on site supervision of the
24 assigned patient care rendered by the physical therapist assistant student or intern.

25 (d) The physical therapist assistant student or intern shall document each
26 treatment in the patient record along with his or her signature. The clinical
27 instructor shall countersign with his or her first initial and last name in the
28 patient's record on the same day as patient related tasks were provided by the

1 physical therapist assistant student or intern. The supervising physical therapist
2 shall conduct a weekly case conference and document it in the patient record.”

3 15. Section 2661.5 (a) of the Code states:

4 “In any order issued in resolution of a disciplinary proceeding before the
5 board, the board may request the administrative law judge to direct any licensee
6 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
7 actual and reasonable costs of the investigation and prosecution of the case.”

8 **EVENTS, ACTS OR OMISSIONS**

9 16. On or about June 3, 2005, pursuant to section 2608.5 of the Code, a board
10 appointed physical therapist, Lee Ann Banducci, and the Division of Investigation conducted an
11 on-site inspection and audit of respondent’s physical therapy practice at Active Rehab Physical
12 Therapy Clinic (“Clinic”) in El Sobrante.

13 17. The physical therapy board consultant and investigator subsequently conducted an
14 inspection and records audit of respondent’s physical therapy practice at Active Rehab Physical
15 Therapy Clinic (hereinafter “Clinic”) in Vallejo² on 6/03/05.

16 18. A review of Patient JB-D’s record revealed the following acts and/or omissions
17 with respect to respondent’s treatment and practice:

18 (a) JB-D’s last visit at the Clinic was 8/23/04. However, the discharge summary for
19 this patient which was written by C. Bagsic, a physical therapy assistant, (“PTA”) and co-signed
20 by respondent was not prepared until 10/08/04 which is more than seven days after the patient’s
21 last visit in violation of Title 16, section 1398.44(h) of the California Code of Regulations.

22 19. A review of Patient BD’s record revealed the following acts and/or omissions
23 with respect to respondent’s treatment and practice:

24 (a) Another physical therapist performed the initial evaluation for BD, however, on
25 subsequent visits to the Clinic, respondent is the only physical therapist identified in the records
26

27
28 2. Names of patients were redacted from the physical therapy records and replaced with a
letter or number as an identifier.

1 who was involved in the care and treatment of this patient and who co-signed the subsequent
2 paperwork in the patient's chart. On 4/25/05, 4/29/05, 5/06/05, 5/09/05, and 5/18/05 patient
3 visits are recorded in BD's chart and documented by PTA Bagsic, PTA. There are no co-
4 signatures by respondent recorded on these visits and there are no weekly conferences
5 documented in the record between the PTA and respondent in violation of Title 16, section
6 1398.44(f) of the California Code of Regulations.

7 (b) On 5/06/05, PTA Bagsic prepared and signed the Progress Report for BD. It is
8 co-signed by respondent, however, there is no documentation in the record that respondent
9 provided treatment to BD on this visit and/or that respondent reevaluated BD on this visit in
10 violation of Title 16, section 1398.44(d) of the California Code of Regulations.

11 (c) BD's last documented visit at the Clinic was 5/18/05, and her treatment was
12 performed by PTA Bagsic. BD's discharge summary was not prepared by respondent until
13 6/17/05, which is more than seven days after the patient's last visit in violation of Title 16,
14 section 1398.44(h) of the California Code of Regulations.

15 20. A review of Patient PF's record revealed the following acts and/or omissions with
16 respect to respondent's treatment and practice:

17 (a) On 2/28/05, respondent performed the initial evaluation of PF.
18 Subsequently, from 3/01/05 through 6/08/05, a period greater than 30 calendar days, a total of
19 twenty five treatments were performed and approximately sixteen of the twenty five were
20 performed by a PTA. Four treatments were done by a physical therapist assistant student
21 (PTAS). There are no documented case conferences between respondent and the PTA
22 documented in the patient record in violation of Title 16, section 1398.44(g) of the California
23 Code of Regulations. There are no weekly conferences between the PTAS and respondent
24 documented in the patient record in violation of Title 16, section 1398.52(d) of the California
25 Code of Regulations.

26 (b) On 3/14/05, 4/20/05, 5/09/05, and 6/02/05, progress reports for Patient PF are
27 prepared and signed by M. Domke, PTA, and co-signed by respondent. There is no
28 documentation in the record that respondent provided treatment to PF during these visits and/or

1 that respondent re-evaluated PF on any of these visits in violation of Title 16, section 1398.44(d)
2 of the California Code of Regulations.

3 (c) PF's final treatment occurred on 6/08/05 and was performed by a PTA. No
4 discharge summary was prepared by respondent for this patient within seven days of her final
5 treatment in violation of Title 16, section 1398.44(h) of the California Code of Regulations.

6 21. A review of Patient RG's record revealed the following acts and/or omissions
7 with respect to respondent's treatment and practice:

8 (a) Another physical therapist performed the initial evaluation for RG, however, on
9 subsequent visits to the Clinic, respondent is the only physical therapist identified in the record
10 who was involved in the care and treatment of this patient and who co-signed the subsequent
11 paperwork in the patient's chart. From 4/06/05 through 5/23/05, a time period greater than thirty
12 calendar days, ten treatments were performed by a PTA and the treatment notes are co-signed by
13 respondent. There is no case conference documented in the patient record between respondent
14 and the PTA performing treatment in violation of Title 16, section 1398.44(g) of the California
15 Code of Regulations.

16 (b) On 9/02/05, a treatment was performed on RG by P. Gonzales, PT aide. The
17 treatment note is signed by P. Gonzales and co-signed by respondent. There is no documentation
18 in the treatment note or record on 9/02/05 that respondent provided direct service to the patient as
19 treatment and/or that respondent evaluated and/or monitored RG's progress in violation of Title
20 16, section 1399(b)(4) of the California Code of Regulations.

21 (c) RG's final visit was on 9/02/05. There is no discharge summary in the patient
22 record in violation of Title 16, section 1398.44(h) of the California Code of Regulations.

23 22. A review of Patient JH's record revealed the following acts and/or omissions
24 with respect to respondent's treatment and practice:

25 (a) On 5/02/05, JH was initially evaluated by respondent. On 5/04/05, a treatment is
26 done and documented by a PTAS. There is no co-signature in the record on this date by
27 respondent and there is no documentation of a weekly conference between respondent and the
28 PTSA in violation of Title 16, section 1398.52(d) of the California Code of Regulations.

23. A review of Patient MK's record revealed the following acts and/or omissions with respect to respondent's treatment and practice:

(a) On 8/04/04, MK was initially evaluated by respondent. On 8/19/04, the treatment note is signed by PTA, Saldana. There is no co-signature in the record on this date by respondent, and there is no documentation of a weekly conference between respondent and the PTA in violation of Title 16, section 1398.44(f) of the California Code of Regulations.

(b) On 9/07/04, PTA Domke, prepared and signed the Progress Report for MK. It is co-signed by respondent, however, there is no documentation in the record that respondent provided treatment to MK on this visit and/or that respondent reevaluated MK on this visit in violation of Title 16, section 1398.44(d) of the California Code of Regulations.

(c) From 8/09/04 through 10/08/04, a time period greater than thirty calendar days, MK received a total of 16 treatments at the Clinic-2. Fourteen of these treatments were performed by PTAs and only two were performed by respondent. There are no case conferences documented in the patient record between respondent and the PTAs performing treatment in violation of Title 16, section 1398.44(g) of the California Code of Regulations.

(d) On 10/08/04, a Progress Report is prepared and signed by PTA Saldana, and co-signed by respondent with no documented treatment or evaluation being performed by respondent on that date in violation of Title 16, section 1398.44(d) of the California Code of Regulations.

(e) On 12/09/05, MK was re-evaluated by respondent. On 1/21/05 and 3/14/05, two Progress Reports are prepared and signed by PTA, Saldana, and co-signed by respondent. There is no documentation in the record of treatment and/or an evaluation by respondent on these dates in violation of Title 16, section 1398.44(d) of the California Code of Regulations.

(f) From 12/13/04 through 1/21/05, a time period greater than thirty calendar days, MK had 8 treatments performed by a PTA only. There is no documented treatment by respondent during this time period, and no case conferences between respondent and the PTA documented in the record in violation of Title 16, section 1398.44(g) of the California Code of Regulations.

1 (g) On 3/11/05, after a seven week hiatus, MK resumed therapy with PTA, Saldana.
2 There is no documentation in the record that MK was evaluated or had any direct contact with
3 respondent on that date which constitutes an extreme departure from the standard of practice.

4 (h) From 3/11/05 through 6/06/05, a time period greater than thirty calendar days,
5 MK had 14 treatments performed by a PTA only. There is no treatment by respondent
6 documented in the record on this date and no case conferences documented in the record between
7 respondent and the PTA rendering treatment in violation of Title 16, section 1398.44(g) of the
8 California Code of Regulations.

9 (i) On 6/06/05, the record reflects that MK had her final visit at the Clinic-2. There
10 is no discharge summary written by respondent within seven days of this final visit in violation of
11 Title 16, section 1398.44(h) of the California Code of Regulations.

12 24. A review of Patient ML's record revealed the following acts and/or omissions
13 with respect to respondent's treatment and practice:

14 (a) On 3/23/05, an initial evaluation was performed by physical therapist J. Lam.
15 The patient's final visit at the clinic was on 6/01/05. Throughout treatment, respondent's co-
16 signature appears on numerous treatment notes for this patient. On 4/11/05, ML was treated by
17 PTA Bagsic. There is no co-signature on this date and no documentation of a weekly conference
18 with the PTA in violation of Title 16, section 1398.44(f) of the California Code of Regulations.

19 (b) On 5/04/05, a Progress Report is prepared by PTA Bagsic and co-signed by
20 respondent. There is no documentation in the record that respondent performed any treatment
21 and/or an evaluation of ML on this date in violation of Title 16, section 1398.44(d) of the
22 California Code of Regulations.

23 (c) From 3/03/05 through 6/01/05, a time period greater than thirty calendar days, ML
24 received 20 physical therapy treatments with only one done by a physical therapist. All other
25 treatments were performed by a PTA. There are no documented case conferences in ML's record
26 between respondent or the PTA in violation of Title 16, section 1398.44(g) of the California
27 Code of Regulations.

28 (d) ML's final therapy session was 6/01/05. There is no discharge summary prepared

1 by respondent for ML in violation of Title 16, section 1398.44(h) of the California Code of
2 Regulations.

3 25. A review of Patient AM's record revealed the following acts and/or omissions
4 with respect to respondent's treatment and practice:

5 (a) On 2/02/05, an initial evaluation was performed by physical therapist J. Lam.
6 After this initial evaluation, respondent was the only physical therapist who had any involvement
7 with the patient and who co-signed treatment notes for the PTAs and PT Aides who treated AM.

8 (b) On 3/11/05 and 5/04/05, Progress Reports are done and documented by PTA
9 Bagsic and co-signed by respondent. There is no documentation in the record that respondent
10 performed any treatment and/or an evaluation of AM on these dates in violation of Title 16,
11 section 1398.44(d) of the California Code of Regulations.

12 (c) On 2/28/05, AM received treatment from PT Aide Gonzalez and the treatment
13 note is co-signed by respondent. There is no documentation in the treatment note or record on
14 2/28/05 that respondent provided direct service to the patient as treatment and/or that respondent
15 evaluated and/or monitored AM's progress in violation of Title 16, section 1399(b)(4) of the
16 California Code of Regulations.

17 (d) From 2/21/05 through 5/04/05, a time period greater than thirty calendar days,
18 approximately 15 treatments were performed by PTA Bagsic and the treatment notes are co-
19 signed by respondent. There are no case conferences documented in the patient record between
20 respondent and the PTA performing treatment in violation of Title 16, section 1398.44(g) of the
21 California Code of Regulations.

22 (e) On or about 6/06/05, after a thirty day break in treatment, PTA Bagsic resumed
23 treatment with AM. There is no documentation in the record that AM was re-evaluated by
24 respondent prior to the resumption of treatment with the PTA which constitutes an extreme
25 departure from the standard of practice in violation of section 2660(h) of the Code (gross
26 negligence).

27 (f) On 7/11/05, AM was treated by PTA Domke. There is no co-signature from
28 respondent on this date and no documentation of a weekly conference in violation of Title 16,

1 section 1398.44(f) of the California Code of Regulations.

2 26. A review of Patient BP's record revealed the following acts and/or omissions with
3 respect to respondent's treatment and practice:

4 (a) On 2/11/05, an initial evaluation was performed by respondent. After this initial
5 evaluation, respondent was the only physical therapist who co-signed treatment notes for all of
6 the subsequent PTA treatment notes and respondent prepared the discharge summary for BP.

7 (b) From 2/16/05 through 4/20/05, a time period greater than thirty calendar days,
8 approximately 14 treatments were performed by a PTA or a PT Aide. There are no case
9 conferences documented in the patient record between respondent and the PTA performing
10 treatment in violation of Title 16, section 1398.44(g) of the California Code of Regulations.

11 (c) On 2/23/05 and 4/18/05, Progress Reports are done and documented by PTA
12 Bagsic and co-signed by respondent. There is no documentation that respondent performed any
13 treatment and/or an evaluation of BP on this date in violation of Title 16, section 1398.44(d) of
14 the California Code of Regulations.

15 (d) On 2/28/05, BP received treatment from PT Aide Gonzalez and the treatment note
16 is co-signed by respondent. There is no documentation in the treatment note or record for 2/28/05
17 that respondent provided direct service to the patient as treatment and/or that respondent
18 evaluated and/or monitored BP's progress in violation of Title 16, section 1399(b)(4) of the
19 California Code of Regulations.

20 (e) BP's final treatment occurred on 4/20/05 and was performed by PTA Bagsic. No
21 discharge summary was prepared by respondent for this patient within seven days of the final
22 treatment in violation of Title 16, section 1398.44(h) of the California Code of Regulations.

23 27. A review of Patient SP's record revealed the following acts and/or omissions with
24 respect to respondent's treatment and practice:

25 (a) On 10/19/04, an initial evaluation was performed by respondent.

26 (b) On 10/25/04, 10/27/04, 11/01/04, 11/03/04, 11/08/04, 11/23/04, 11/29/04,
27 12/01/04, 12/06/04, 12/13/04, and 12/16/04, treatments were done and documented by PTA
28 Bagsic. There are no co-signatures in the record on these dates by respondent and there is no

1 documentation of a weekly conference between respondent and the PTA in violation of Title 16,
2 section 1398.44(f) of the California Code of Regulations.

3 (c) On 11/03/04, a Progress Report is done and documented by PTA Bagsic and co-
4 signed by respondent. There is no documentation in the record that respondent performed any
5 treatment and/or an evaluation of SP on this date in violation of Title 16, section 1398.44(d) of
6 the California Code of Regulations.

7 (d) From 10/25/04 through 12/16/04, a time period greater than thirty calendar days,
8 all of SP's treatments were done by a PTA. There are no case conferences documented in the
9 patient record between respondent and the PTA performing treatment in violation of Title 16,
10 section 1398.44(g) of the California Code of Regulations.

11 (e) On 12/16/04, a discharge summary is done and signed by PTA Bagsic and co-
12 signed by respondent. There is no documentation in the treatment note that respondent evaluated
13 SP's response to treatment in violation of Title 16, section 1398.44(h) of the California Code of
14 Regulations.

15 (f) On 3/07/05, SP began a new series of treatments at the Clinic and was initially
16 evaluated by physical therapist J. Lam. After this initial evaluation, all subsequent treatments are
17 performed by a PTA and the treatment notes are co-signed by respondent. From 3/25/05 2005
18 through 6/01/05, a time period greater than thirty calendar days, all of SP's treatments were done
19 by a PTA. There are no case conferences documented in the patient record between respondent
20 and the PTA performing treatment in violation of Title 16, section 1398.44(g) of the California
21 Code of Regulations.

22 (g) On or about 5/13/05, after a thirty day break in treatment, PTA Bagsic resumed
23 treatment of SP. There is no documentation in the record that SP was re-evaluated by respondent
24 prior to the resumption of treatment which constitutes an extreme departure from the standard of
25 practice in violation of section 2660(h) of the Code (gross negligence).

26 (h) On 4/13/05, a Progress Report is done by PTA Bagsic. There is no co-signature
27 from respondent on this date and no documentation of a weekly conference in violation of Title
28 16, section 1398.44(f) of the California Code of Regulations. There is no documentation in the

1 record that respondent performed any treatment and/or an evaluation of SP on this date in
2 violation of Title 16, section 1398.44(d) of the California Code of Regulations.

3 (i) On 6/01/05, a final treatment was performed by PTA Bagsic and co-signed by
4 respondent. There is no discharge summary written by respondent within seven days of the last
5 date of treatment in violation of Title 16, section 1398.44(h) of the California Code of
6 Regulations.

7 28. A review of Patient MR's record revealed the following acts and/or omissions
8 with respect to respondent's treatment and practice:

9 (a) On 4/11/05, an initial evaluation was performed by physical therapist, J. Lam.
10 After that date, the majority of all subsequent PTA treatment notes are co-signed by
11 respondent.

12 (b) On 4/18/05, MR received treatment from PT Aide Gonzalez and the treatment
13 note is co-signed by respondent. There is no documentation in the treatment note or record for
14 4/18/05 that respondent provided direct service to the patient as treatment and/or that respondent
15 evaluated and/or monitored MR's progress in violation of Title 16, section 1399(b)(4) of the
16 California Code of Regulations.

17 (c) On 4/25/05, 4/29/04, 5/02/05, and 6/08/05, treatments were done and documented
18 by PTA Bagsic. There are no co-signatures in the record on these dates by respondent and there
19 is no documentation of a weekly conference between respondent and the PTA in violation of
20 Title 16, section 1398.44(f) of the California Code of Regulations.

21 (d) On 5/04/05 and 6/08/05, Progress Reports are documented by PTA Bagsic and co-
22 signed by respondent. There is no documentation in the record that respondent performed any
23 treatment and/or an evaluation of MR on these dates in violation of Title 16, section 1398.44(d)
24 of the California Code of Regulations.

25 (e) On 8/26/05, a treatment was done and documented by PTA Domke. There is no
26 co-signature in the record on this date and there is no documentation of a weekly conference
27 between respondent and the PTA in violation of Title 16, section 1398.44(f) of the California
28 Code of Regulations.

1 29. A review of Patient WR's record revealed the following acts and/or omissions
2 with respect to respondent's treatment and practice:

3 (a) On 4/13/05, an initial evaluation was performed by physical therapist, J. Lam.
4 After that date, the majority of all subsequent PTA treatment notes are co-signed by
5 respondent.

6 (b) On 4/27/05, the record reveals that MR was billed for a re-evaluation, however,
7 there is no documentation of a re-evaluation being performed on that date. This act and/or
8 omission constitutes a dishonest and/or corrupt act which is substantially related to the
9 qualifications, functions, or duties of a physical therapist in violation of Section 2660(l) of the
10 Code.

11 (c) On 5/23/05, 6/01/05, and 6/15/05, treatments were performed and documented by
12 PTA Bagsic. There are no co-signatures in the record on these dates by respondent and there is
13 no documentation of a weekly conference between respondent and the PTA in violation of Title
14 16, section 1398.44(f) of the California Code of Regulations.

15 (d) On 5/25/05, WR received treatment from PT Aide Gonzalez. The treatment note
16 is *not* co-signed by respondent. There is no documentation in the treatment note or record on
17 5/23/05 that respondent provided direct service to the patient as treatment and/or that respondent
18 evaluated and/or monitored WR's progress in violation of Title 16, section 1399(b)(4) of the
19 California Code of Regulations and Title 16, section 1399(b)(6) of the California Code of
20 Regulations.

21 (e) On 5/04/05 and 6/08/05, Progress Reports are done and documented by PTA
22 Bagsic and co-signed by respondent. There is no documentation in the record that respondent
23 performed any treatment and/or an evaluation of WR on these dates in violation of Title 16,
24 section 1398.44(d) of the California Code of Regulations.

25 30. A review of Patient SW's record revealed the following acts and/or omissions
26 with respect to respondent's treatment and practice:

27 (a) On 5/23/05, an initial evaluation was performed by physical therapist, J. Lam.
28 After that date, the majority of all subsequent PTA treatment notes and one Progress are co-

signed by respondent.

(b) On 4/11/05, and 4/15/05, treatments were done and documented by PTA Bagsic and PTA Saldana, respectively. There are no co-signatures in the record on these dates by respondent and there is no documentation of a weekly conference between respondent and either PTA in violation of Title 16, section 1398.44(f) of the California Code of Regulations.

(c) On 5/25/05, SW received treatment from PT Aide Gonzalez. The treatment note is co-signed by respondent. There is no documentation in the treatment note or record for 5/25/05 that respondent provided direct service to the patient as treatment and/or that respondent evaluated and/or monitored SW's progress in violation of Title 16, section 1399(b)(4) of the California Code of Regulations.

(d) On 5/16/05, a Progress Report is done and documented by PTA Bagsic and co-signed by respondent. There is no documentation that respondent performed any treatment and/or an evaluation of SW on this date in violation of Title 16, section 1398.44(d) of the California Code of Regulations.

(e) From 4/04/05 through 6/10/05, a time period greater than thirty calendar days, SW received approximately 19 treatments that were performed either by a PTA or PT Aide only. There are no case conferences documented in the patient record between respondent and the PTA performing treatment in violation of Title 16, section 1398.44(g) of the California Code of Regulations. There is no documentation in the record that respondent provided any direct service to SW when the PT Aide performed patient related tasks in violation of Title 16, section 1399(b)(4) of the California Code of Regulations.

CAUSES FOR DISCIPLINARY ACTION

31. The allegations of paragraphs 16 through 30, inclusive, are incorporated herein as if fully set forth.

32. Respondent is subject to disciplinary action based upon the events, acts, or omissions, as set forth in paragraph 30, pursuant to Business and Professions Code sections: 2660 (unprofessional conduct); and/or 2660(h) (gross negligence in his or her practice in that respondent's lack of adequate supervision of PTA's, and PT Aides constituted an extreme

1 departure from the standard of practice); and/or 2660(i) (violating, or attempting to violate,
2 directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any
3 provision or term of this chapter or of the State Medical Practice Act); and/or 2660(j) (aiding or
4 abetting of any person to violate this chapter or any regulations duly adopted under this chapter);
5 and/or 2660(k) (aiding or abetting of any person to engage in the unlawful practice of physical
6 therapy); and/or for violating or attempting to violate, or assisting in or abetting the violating of,
7 or aiding or abetting or conspiring to violate section 1398.44 of Title 16 of the California Code of
8 Regulations, including subdivisions (a), and/or (b) and/or, (d), and/or (f), and/or (g), and/or (h);
9 and/or section 1399 of Title 16 of the California Code of Regulations, including subdivisions b(4)
10 and b(6), and/or section 1398.52(d) of Title 16 of the California Code of Regulations.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Physical Therapy Board of California issue a decision:

- 14 1. Revoking or suspending Physical Therapist License Number PT 21149 issued to
15 respondent;
- 16 2. Ordering respondent to pay the Physical Therapy Board of California the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 2661.5;
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: June 5, 2007

21
22 Original Signed By:
23 STEVEN K. HARTZELL
24 Executive Officer
25 Physical Therapy Board of California
26 Department of Consumer Affairs
27 State of California

28 Complainant